

## **MINUTES**

### **MONTANA HOUSE OF REPRESENTATIVES 57th LEGISLATURE - REGULAR SESSION COMMITTEE ON TAXATION**

**Call to Order:** By **CHAIRMAN BOB STORY**, on March 27, 2001 at 8:00 A.M., in Room 472 Capitol.

#### **ROLL CALL**

##### **Members Present:**

Rep. Bob Story, Chairman (R)  
Rep. Ron Erickson, Vice Chairman (D)  
Rep. Roger Somerville, Vice Chairman (R)  
Rep. Joan Andersen (R)  
Rep. Keith Bales (R)  
Rep. Joe Balyeat (R)  
Rep. Gary Branae (D)  
Rep. Eileen Carney (D)  
Rep. Larry Cyr (D)  
Rep. Rick Dale (R)  
Rep. Ronald Devlin (R)  
Rep. John Esp (R)  
Rep. Gary Forrester (D)  
Rep. Daniel Fuchs (R)  
Rep. Verdell Jackson (R)  
Rep. Jesse Laslovich (D)  
Rep. Trudi Schmidt (D)  
Rep. Butch Waddill (R)  
Rep. Karl Waitschies (R)  
Rep. David Wanzenried (D)

**Members Excused:** None.

**Members Absent:** None.

**Staff Present:** Jeff Martin, Legislative Branch  
Rhonda Van Meter, Committee Secretary

**Please Note:** These are summary minutes. Testimony and discussion are paraphrased and condensed.

##### **Committee Business Summary:**

Hearing(s) & Date(s) Posted: SB 486, SB 134, 5/6/2001  
Executive Action: HB 631, HB 636, HB 635, HB  
616, HB 248, SB 240, HB 58, HB  
121, HB 277

**HEARING ON HB 486**

**Sponsor:** SEN. BOB DEPRATU, SD 40 , WHITEFISH

**Proponents:** None

**Opponents:** None

**Opening Statement by Sponsor:**

SEN. BOB DEPRATU, SD 40 , WHITEFISH, said this bill would deal with capital gains for specific purposes. He explained how this would effect stock options. He felt this would be an economic development bill to assist with Montana corporations. This would be able to expand the businesses with stock options and involving Montana capital gains to assist with growth.

**Proponents' Testimony:** None

**Opponents' Testimony:** None

**Questions from Committee Members and Responses:**

REP. DAN FUCHS asked what adaptability this bill would offer.

SEN. DEPRATU explained the capital gains option.

REP. JOE BALLYEAT asked about tax terminology and how the language clarifies this in the bill. SEN. DEPRATU pointed to lines 21 and 22 and explained stock being transferred.

REP. BALLYEAT referred to page two and asked where it states the business in Montana should be incorporated. SEN. DEPRATU mentioned discussion from the Senate relating to this issue. He thought it should be made broader.

REP. BALLYEAT asked if there was a time limit to create jobs.

SEN. DEPRATU said the time limit would relate to how many people involved.

REP. JOHN ESP asked about the gain on stock language within the bill. SEN. DEPRATU explained the stock value within five years and how the language defines it within the bill.

REP. ESP asked about businesses having sales. SEN. DEPRATU said it would be gross sales.

**REP. TRUDI SCHMIDT** asked about the technical note. **SEN. DEPRATU** explained the note and pointed to sections defining the language.

**REP. KARL WAITSCHIES** asked about stock options and the transferring into a company. **SEN. DEPRATU** explained the costs involved and the transferring.

**REP. WAITSCHIES** pointed to page two and asked about the transfer. **SEN. DEPRATU** said other things would have to assist with the transfer.

**REP. WAITSCHIES** asked about the percentage with this bill. **SEN. DEPRATU** felt it should come out of the range pertaining to wage earnings.

**REP. RON ERICKSON** asked for a response of people taking a part of the taxable income. **SEN. DEPRATU** thought the tax system needed reformed and he felt the jobs were important for the state.

**REP. GARY FORRESTER** asked about federal and state tax exemptions pertaining to stock. **Larry Finch, Department of Revenue**, explained the tax options and sale of tax. He said people would do it in a manner that wouldn't provide for taxable transaction, but a transfer.

**REP. FORRESTER** talked about stock being sold and wondered how it would transfer to effect the business in Montana. **Larry Finch** addressed the transfer of stock and investments into the company.

**Closing by Sponsor:**

**SEN. BOB DEPRATU, SD 40 , WHITEFISH**, summarized the bill and stated how this would assist with economic development. He talked about the capital gains and investments for Montana businesses.

***{Tape 1; Side B}***

**HEARING ON SB 134**

**Sponsor:** **SEN. KEN MILLER, SD 11, LAUREL**

**Proponents:** **Jim Mockler, Executive Director, MT. Coal Council**  
**Don Allen, Western Environmental Trade Association**  
**Tom Harrison, Spring Creek Coal**  
**Clark Fritz**  
**Lorra Karn, Farm Bureau Federation**

**Opponents:**        **Patrick Judge, MT. Environmental Information Center**

**Opening Statement by Sponsor:**

**SEN. KEN MILLER, SD 11, LAUREL,** said this bill would reduce the coal severance tax. He stated the accomplishments this bill would do and mentioned turning coal into electricity to provide economic growth for the state. He felt this bill would offer reliable power for businesses to come to the state.

**Proponents' Testimony:**

**Jim Mockler, Executive Director, MT. Coal Council,** supported this legislation due to the impact it would have for the state. He felt this would benefit the state with new businesses.

**Don Allen, Western Environmental Trade Association,** talked about ways to stimulate the economy of Montana and felt this bill would provide benefits for the state by offering new businesses to come into the state.

**Tom Harrison, Spring Creek Coal,** gave a background of Spring Creek Coal. He explained the production of coal and felt this bill would assist the state. He was concerned about the provision that dealt with 50% of the energy being offered in Montana.

**Clark Fritz, Kiewit Mining Group,** support this bill and encouraged a do pass recommendation.

**Lorra Karn, Farm Bureau Federation,** explained farm managers over the years trying to reduce the coal severance taxes in the state. She felt it would assist economic development and encouraged support of the bill.

**Opponents' Testimony:**

**Patrick Judge, MT. Environmental Information Center,** gave reasons for supporting this legislation. He addressed power generating the state and the developments. He explained concerns with power surges and glacier levels decreasing.

**Questions from Committee Members and Responses:**

**REP. RON DEVLIN** referred to page two and asked about the coal mine. **SEN. MILLER** didn't have a mile range.

**REP. DEVLIN** mentioned coal trains and possible plants in eastern Montana. He asked if the mid-west grid would make requirements of this bill. **SEN. MILLER** answered yes.

**REP. KEITH BALES** asked if having a power plant would qualify for a tax break. **SEN. MILLER** commented the language may not be clear within the bill regarding this issue. He preceded to explain the power being offered to Montana customers and for the customers.

**REP. TRUDI SCHMIDT** asked if the percent would stay with the company the entire time. **SEN. MILLER** mentioned the time-frame in the bill.

**REP. RON ERICKSON** asked how much of electricity would be accounted for. **Jim Mockler** answered a small portion. He mentioned the severance tax percent.

**REP. ERICKSON** asked what the life time for a coal powered plant would be. **Jim Mockler** thought the life time would be close to 20 or 30 years.

**REP. ERICKSON** asked if it would be feasible for PPL to take advantage of the issues. **Jim Mockler** thought that would not be feasible.

**REP. JOHN ESP** asked how much would be anticipated for the coal severance tax for a plant. **Jim Mockler** answered approximately \$1 million for the tax.

**REP. BUTCH WADDILL** asked how long it would take for a plant to begin producing energy and assist with prices. **Jim Mockler** said the purpose of the bill was for plants to be built in the state and he mentioned close to four years for the production stage to begin.

**REP. WADDILL** asked if there was a problem with the plants being constructed in Montana currently. **Jim Mockler** said this was the first year for the interest of construction of plants. He addressed the encouragement of the communities to build these plants.

**CHAIRMAN STORY** asked what determines the price for coal and the product involved. **Tom Harrison** felt it would have to be in the context of long term. He said that was the only way to get the plants financed.

**CHAIRMAN STORY** asked if the coal price would decrease from the difference in tax. **Tom Harrison** didn't have the correct answer

for this question. **Jim Mockler** explained the coal industry and explained the taxes involved.

**REP. ERICKSON** referred to the fiscal note and asked about counties being hit hard by having less tax votes. **SEN. MILLER** talked about tax revenue and how it would effect the counties.

*{Tape 2; Side A}*

**REP. ERICKSON** explained impacts happening with the property being used. He asked if the percentage should be increased. **SEN. MILLER** didn't think the argument dealt with the impact. He mentioned communities he visited in eastern Montana.

**REP. KARL WAITSCHIES** asked if there would be a consideration one half of the tax. **SEN. MILLER** said he would consider anything that would improve the current statutes.

**REP. WADDILL** asked what the tax rates were in Wyoming. **Jim Mockler** mentioned the annual report from the state of Wyoming and compare to Montana. He said it was approximately 8% severance tax and stated Wyoming had a higher tax then Montana.

**REP. WADDILL** asked if there would be inequality being taxed at a certain rate. **Jim Mockler** answered no, he didn't see this arising.

Closing by Sponsor:

**SEN. KEN MILLER, SD 11, LAUREL**, felt the bill would be a good opportunity for Montana. He didn't see the power problems in California affecting Montana and this proposal should create jobs. He supported any amendments offered to support this legislation and clarify language.

**EXECUTIVE ACTION ON HB 631**

**Motion:** **REP. CARNEY** moved HB 631 DO PASS.

**Discussion:**

**CHAIRMAN STORY** wondered why the bill would cost \$21 million in the second year biennium. He mentioned the schedules involved.

**REP. ERICKSON** thought the trust within a trust was a good idea. He talked about the structure of this bill.

**CHAIRMAN STORY** explained the trust within a trust idea as a statutory appropriations taking money from the general fund into a specific purpose.

**Vote:** Motion failed 8-12 with REP. ERICKSON, REP. BRANAE, REP. CARNEY, REP. CYR, REP. FORRESTER, REP. LASLOVICH, REP. SCHMIDT and REP. WANZENRIED voting aye.

**Motion/Vote:** REP. SOMERVILLE moved HB 631 BE TABLED. Motion carried by reversing above vote.

**EXECUTIVE ACTION ON HB 636**

**Motion:** REP. FUCHS moved HB 636 BE AMENDED. Amendments were handed out **EXHIBIT**(tah69a01).

**Discussion:**

**Jeff Martin, Legislative Staff,** explained language being clarified and the effective date being changed.

**REP. DAN FUCHS** asked the committee to recognize the tax involved with this bill. He thought this would offer Montanans to vote upon a sales tax.

**Vote:** Motion carried 19-1 with REP. WANZENRIED voting no.

**Motion/Vote:** REP. FUCHS moved HB 636 DO PASS AS AMENDED. Motion carried 12-8 with REP. ERICKSON, REP. BRANAE, REP. CARNEY, REP. CYR, REP. ESP, REP. SCHMIDT, REP. WANZENRIED and CHAIRMAN STORY voting no.

*{Tape 2; Side B}*

**EXECUTIVE ACTION ON HB 635**

**Motion:** REP. FUCHS moved HB 635 DO PASS.

**Discussion:**

**REP. FUCHS** explained the constitutional amendment with this bill and the concept of tax reform.

**REP. DEVLIN** felt by voting on a sales tax it would increase in the future. **REP. JESSE LASLOVICH** agreed and didn't feel a sales tax would be good for the state with the cap on it.

REP. BALES felt this legislation was good to decrease the income tax and offer other merits to the state.

REP. VERDELL JACKSON had concerns with the cap of the sales tax.

Vote: Motion failed 6-14 with REP. BALYEAT, REP. DALE, REP. ESP, REP. FUCHS, REP. JACKSON and REP. WADDILL voting aye.

Motion/Vote: REP. ESP moved HB 635 BE TABLED. Motion carried by reversing above vote.

EXECUTIVE ACTION ON HB 616

Motion: REP. BALES moved HB 616 DO PASS.

Discussion:

REP. BALES explained the study committee and handed out a letter by Ken Nordtvedt **EXHIBIT(tah69a02)**. He also handed out a letter from Bob Vogel regarding this bill **EXHIBIT(tah69a03)**.

Amend Motion: CHAIRMAN STORY moved to redo the APPROPRIATIONS FROM 250,000 TO 125,000.

Discussion:

REP. ESP asked if that would include the grants. CHAIRMAN STORY answered no.

Vote: Motion carried unanimously.

Substitute Motion/Vote: REP. WADDILL moved an amendment CHANGING RETAIL TO SMALL BUSINESS ON PAGE TWO. Motion carried unanimously.

Substitute Motion: REP. ERICKSON moved an amendment to MAKE ONE MEMBER IN SENATE AND ONE FOR THE HOUSE FROM EACH PARTY- 4 MEMBERS IN BOTH HAVING EQUAL REPRESENTATION.

Discussion:

REP. FUCHS didn't like the changes for equal representation.

REP. ESP thought by having two from each party representing would offer advantages.

REP. EILEEN CARNEY favored the amendment. She thought both parties should represent.



**CHAIRMAN STORY** explained interim committees. **REP. FORRESTER** asked for clarification of examples with interim committees with separate memberships. **CHAIRMAN STORY** mentioned how they would be appointed by the speaker.

**SPEAKER DAN MCGEE, HD 21, LAUREL**, commented on equal parties for the interim committees. He mentioned HB 121 and focused discussion on this legislation.

**REP. ERICKSON** continued by saying the majority was made up of tax users - people employed by the state using tax payer money.

Vote: Motion failed 9-11 with **REP. ERICKSON, REP. BRANAE, REP. CARNEY, REP. CYR, REP. FORRESTER, REP. LASLOVICH, REP. SCHMIDT, REP. WADDILL** and **REP. WANZENRIED** voting aye.

Amend Motion: **REP. BALES** made a motion OFFERING TWO DIFFERENT COMMISSIONS.

Discussion:

**REP. BALES** had problems with the focus of residential buildings off of the property tax.

Vote: Motion failed 9-11 with **REP. ERICKSON, REP. BALYEAT, REP. BRANAE, REP. DALE, REP. ESP, REP. JACKSON, REP. SCHMIDT, REP. WADDILL** and **REP. WANZENRIED** voting aye.

Motion/Vote: **REP. LASLOVICH** moved HB 616 BE TABLED. Motion carried 15-5 with **REP. SOMERVILLE, REP. ESP, REP. JACKSON, REP. WADDILL** and **CHAIRMAN STORY** voting no.

*{Tape 3; Side A}*

EXECUTIVE ACTION ON HB 248

Motion/Vote: **REP. ESP** moved HB 248 DO PASS. Motion carried 13-7 with **REP. BALYEAT, REP. DALE, REP. ESP, REP. FUCHS, REP. JACKSON, REP. WAITSCHIES** and **CHAIRMAN STORY** voting no.

EXECUTIVE ACTION ON SB 240

Motion: **REP. FORRESTER** moved SB 240 BE CONCURRED IN.

Discussion:

**REP. ESP** addressed information he received regarding 500 barrels.

**REP. BALES** thought it would be necessary for areas to continue production.

**Vote:** Motion carried 19-1 with **REP. ERICKSON** voting no.

**EXECUTIVE ACTION ON HB 121**

**Motion:** **REP. WADDILL** moved HB 121 BE AMENDED. Amendments were handed out **EXHIBIT**(tah69a04).

**Discussion:**

**REP. WADDILL** discussed the study group and how this would increase the tobacco tax.

**CHAIRMAN STORY** asked about the funding level. **REP. WADDILL** said it was the level within the bill to be funded.

**Chuck Swysgood, Office of Budget Program Planning**, gave a brief overview of the legislation and proposal.

**REP. ERICKSON** asked about the \$21 million and how much was in each year. **Chuck Swysgood** thought the amendment, from the House floor, brought that to a three and three.

**REP. ERICKSON** asked if there was any relationship between the cigarette tax and any settlements. **Chuck Swysgood** said the tobacco settlement was a consumption.

**CHAIRMAN STORY** determined what this amendment would do with the bill. **REP. WADDILL** gave the basics of the amendment and how it would be effective.

**Vote:** Motion carried 12-8 with **REP. SOMERVILLE, REP. BALES, REP. BALYEAT, REP. DEVLIN, REP. ESP, REP. JACKSON, REP. WAITSCHIES** and **CHAIRMAN STORY** voting no.

**EXECUTIVE ACTION ON HB 58**

**Motion/Vote:** **REP. ERICKSON** moved HB 58 BE removed from the table. Motion carried 12-8 with **REP. SOMERVILLE, REP. BALYEAT, REP. DALE, REP. DEVLIN, REP. ESP, REP. JACKSON, REP. WAITSCHIES** and **CHAIRMAN STORY** voting no.

**Discussion:**

**Motion:** REP. WADDILL moved HB 58 BE AMENDED. Amendments were handed out **EXHIBIT**(tah69a05).

REP. WADDILL explained the amendments. Jeff Martin explained the bill increasing the tobacco tax. He said the money would be used to fund provisions of HB 121.

REP. CARNEY objected this to be on the ballot. She talked about teacher salaries.

**Substitute Motion:** REP. CARNEY moved to segregate the amendments.

**Discussion on Referendum:**

REP. WADDILL thought if the funding wasn't impacted negatively the segregation motion would be fine.

CHAIRMAN STORY asked about the effective date. Jeff Martin said it was fiscal year 2003.

REP. ERICKSON didn't think this would go to a referendum. He wanted funding for HB 121 for a good level brought forward.

**Withdrawn Motion to Segregate by REP. CARNEY**

**Amendment Motion/Vote:** REP. WADDILL moved to CHANGING AMENDMENT TO EFFECTIVE DATE to 2001. Motion carried unanimously.

REP. ESP wondered about the date change. He asked for clarification. Jeff Martin said the increase in tobacco tax would be effective July 1, 2002.

REP. ESP didn't agree with the amendment. He felt it would proposing to fund education with the tobacco tax.

***{Tape 3; Side B}***

REP. ERICKSON mentioned this biennium and the effects of the money.

**Amendment Motion:** REP. ERICKSON moved to amend by adding language for tobacco tax would not be tied to education.

**Discussion:**

**Vote:** Motion carried 14-6 with REP. BALYEAT, REP. DALE, REP. SOMERVILLE, REP. JACKSON, REP. ESP and CHAIRMAN STORY voting no.

**Motion/Vote:** REP. WADDILL moved HB 58 DO PASS AS AMENDED. Motion carried 12-8 with REP. SOMERVILLE, REP. BALES, REP. BALYEAT, REP. DEVLIN, REP. ESP, REP. JACKSON, REP. WAITSCHIES and CHAIRMAN STORY voting no.

**EXECUTIVE ACTION ON HB 121**

**Motion:** REP. STORY moved HB 121 BE AMENDED. Amendments were handed out **EXHIBIT** (tah69a06).

**Discussion:**

CHAIRMAN STORY explained the effect of these amendments and the clarifications to the bill.

**Vote:** Motion carried 11-9 with REP. ERICKSON, REP. BRANAE, REP. CARNEY, REP. CYR, REP. FORRESTER, REP. LASLOVICH, REP. SCHMIDT, REP. WADDILL and REP. WANZENRIED voting no.

REP. SOMERVILLE talked about the sales tax flowing into this to add a solution.

REP. FORRESTER asked what the deadline for getting this proposal out. REP. SOMERVILLE didn't know any deadlines for revenue bills.

REP. ERICKSON tried to put the bill into context. He explained a Senate bill this would mirror. He mentioned the increase in sales of cigarettes. He added these bills were not identical.

REP. JACKSON mentioned the total ramifications of this bill and how it would be effective.

***{Tape 4; Side A}***

CHAIRMAN STORY explained the funding from the cigarette tax in the general fund.

REP. ERICKSON reflected upon the cigarette tax during the biennium.

**Motion/Vote:** REP. STORY moved HB 121 DO PASS AS AMENDED. Motion carried 11-9 with REP. ERICKSON, REP. BRANAE, REP. CARNEY, REP.

CYR, REP. FORRESTER, REP. LASLOVICH, REP. SCHMIDT, REP. WADDILL  
and REP. WANZENRIED voting no.

EXECUTIVE ACTION ON HB 277

Motion/Vote: REP. WANZENRIED moved HB 277 BE TABLED. Motion  
carried 12-8 with REP. SOMERVILLE, REP. ANDERSON, REP. BALES,  
REP. BALYEAT, REP. DALE, REP. DEVLIN, REP. JACKSON and CHAIRMAN  
STORY voting no.

**ADJOURNMENT**

Adjournment: 11:52 A.M.

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REP. BOB STORY, Chairman

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CECILE M. TROPILA, Transcriptionist

BS/RV

**EXHIBIT (tah69aad)**